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Date of Deposit: September 18, 2003
Law Offices of Natan Epstein
Attorney Docket No. Q858-E

SC
#120
10-9-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Bennett, John E. and Bradley, Willis C.

Serial No. 09/664,085

Filed: September 18, 2000

Title: ADJUSTABLE HINGES FOR ORTHOPEDIC SPLINTS

Patent Examiner: Hutton, Jr., William D.

Group Art Unit: 3676

AMENDMENT

Mail Stop Responses – Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The following amendment is responsive to the Non-Final Office Action mailed 06/18/2003, paper number 11 in the prosecution file.

Claims 1-39 are pending in the application. Claims 1-17 and 22-25 and 37 have been allowed. Claims 29, 30, 38 and 39 have been rejected. Claims 18-21, 26-28 and 31-36 have been objected to.

Responsive to the Office Action, please amend the claims as indicated in the accompanying Marked-up Copy of the Amended Claims.

09/25/2003 ZJUHR1 00000041 502756 09664085

01 FC:2202	207.00 DA
02 FC:2201	126.00 DA
03 FC:2203	140.00 DA

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The Commissioner is hereby authorized to charge **Deposit Account No. 502756** in payment of any fees due as a result of this Amendment, including any extension of time fees or other fees that may be required to maintain this application in good standing,

Claim Objections

The Claim Objections raised by the Examiner have been addressed by appropriate amendment to the respective claims. As a result, Claims 18-21, 26-28 and 31-36 are now believed to be in condition for immediate allowance.

Claim Rejections

The Claim Rejections under 35 USC §103(a) of Claims 29, 30, 38 and 39 over admitted prior art v Bloedau and further v Benett et al have been addressed by amendment of each of these four Claims.

Independent claims 29 and 38 are amended to recite with greater particularity the nature of the directional markings on applicant's orthopedic splint as being indicative of opposite directions of rotation of the two wheels for limiting pivotal movement of the upper and lower plates of the hinge relative to each other, thereby to set a range of angular movement of the two plates.

In the Office Action the Examiner relies upon Bennett et al., U.S. Patent 5,873,847, Figure 2, as showing "directional markings" on radial tabs of an orthopedic hinge.

Issue is respectfully taken with the Examiner's position. The radial tabs 38, 40 in Figure 2 of the Bennett et al. '847 reference are not directional markings. The tabs show a short radial line which is in no way suggestive of a direction of rotation of the hinge portions associated with each tab 38, 40. The radial lines on the tabs are at best indexing marks which assist a therapist in aligning the tabs with corresponding markings 15 on the face plate

of the hinge so as to more accurately set the tab positions. The markings do not, however, suggest or identify a direction of rotation corresponding to each of the tabs so as to associate the tabs with a corresponding left hand or right hand stop or limit of angular movement of the orthopedic hinge.

As amended, the rejected claims specify that the directional markings are indicative of opposite directions of rotation of the two wheels. Clearly, no such indication is provided by Bennett et al. '847. No other orthopedic hinge of record having independently adjustable wheels for setting a range of angular movement is provided with such directional visual aids for assisting a therapist in properly setting the orthopedic device with a minimum of fumbling or error.

In the absence of a prior art teaching of directional markings on such an orthopedic hinge it is urged that the Examiner's rejection of Claims 29, 30, 38 and 39 can only be based upon hindsight reconstruction of the prior art made in light of applicant's disclosure.

As now amended, Claims 29, 30, 38 and 39 are believed to be allowable over the art of record and such action is earnestly solicited.

Newly Added Claims

Claims 40 through 55 are newly added by the present amendment, and are believed to patentably distinguish over the art of record..

Independent Claim 40 distinguishes over the cited art generally and the Kilbey '000 reference in particular in that this applicant's spring actuated detent is supported on one of the plates of the hinge and the single detent engages both wheels of applicant's hinge to lock the wheels against rotation relative to that one plate. Applicant's spring driven detent advances over prior detents which required relatively cumbersome turning of a threaded shaft 42 as in Davis et al.'599, yet applicant's detent is made relatively safe against accidental or unauthorized release by a patient fitted with the orthopedic hinge by configuring

the detent so as to substantially prevent unaided manual disengagement of the detent. No attempt is made by Kilbey '000 to safeguard its detent (70) against patient release.

Review and reconsideration of the application in light of the foregoing remarks and accompanying amendment is respectfully requested. A Notice of Allowability is believed to be in order and such action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. Epstein', written over a horizontal line.

Natan Epstein
Registration No. 28,997
Attorney for Applicant

Dated: September 18, 2003

AMENDMENT TRANSMITTAL LETTER (Small Entity)

Applicant(s): John E. Bennett et al.

Docket No.

Q858-E

Serial No.

09/664,085

Filing Date

09/18/00

Examiner

William D. Hutton, Jr.

Group Art Unit

3676

Invention:

ADJUSTABLE HINGES FOR ORTHOPEDIC SPLINTS

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is an amendment in the above-identified application.

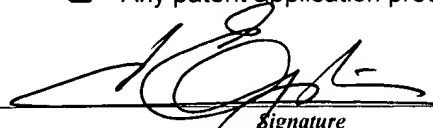
- ☒ Small Entity status of this application has been established under 37 CFR 1.27 by a verified statement previously submitted.
- ☐ A verified statement to establish Small Entity status under 37 FR 1.27 is enclosed.

The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	62 -	39 =	23 x	\$9.00	\$207.00
INDEP. CLAIMS	9 -	6 =	3 x	\$42.00	\$126.00
Multiple Dependent Claims (check if applicable) <input checked="" type="checkbox"/>					\$140.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$473.00

- ☐ No additional fee is required for amendment.
- ☒ Please charge Deposit Account No. 502756 in the amount of \$473.00
- ☐ A check in the amount of to cover the filing fee is enclosed.
- ☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No.
- ☒ Any additional filing fees required under 37 C.F.R. 1.16.
- ☐ Any patent application processing fees under 37 CFR 1.17.


Signature
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Dated: September 18, 2003

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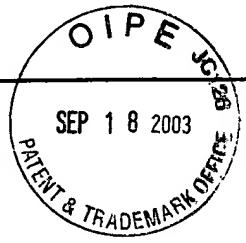
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CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10) Applicant(s): John E. Bennett et al.	Docket No. Q858-E
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Serial No. 09/664,085	Filing Date 09/18/00	Examiner William D. Hutton, Jr.	Group Art Unit 3676
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Invention:
ADJUSTABLE HINGES FOR ORTHOPEDIC SPLINTS



I hereby certify that this Amendment, with Marked-Up Copy of the Amended Claims
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is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under
37 CFR 1.10 in an envelope addressed to: Director of the United States Patent and Trademark Office, P.O. Box
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